

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL ACTION NO. 5:22-CR-00060-KDB-SCR**

UNITED STATES OF AMERICA,

v.

**MICHAEL ELLIOT KOHN,
CATHERINE ELIZABETH
CHOLLET, AND
DAVID SHANE SIMMONS,**

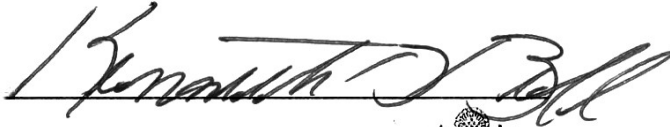
Defendant.

ORDER

THIS MATTER is before the Court on Defendant Michael E. Kohn's Motion for Judgment of Acquittal as to Counts 1, 2-12 and 18-22 (Doc. No. 195), Defendant David S. Simmons' Motion for Judgment of Acquittal Re Counts 2-12 (Aiding and Assisting in the Filing of False Tax Returns) (Doc. No. 197), and Defendants' Notices of Intention to Adopt Motions of their Co-Defendants (Doc. Nos. 196, 200, 201). The Court has carefully considered these motions, the parties' briefs, and oral argument on the motion from the parties' counsel on April 23, 2024. For the reasons stated in the United States' Response to Kohn's Motion for Judgment of Acquittal as to Counts 1, 2-12 and 18-22, the Court will **DENY** Defendants' motions.¹

¹ The Government's Response, in its discussion of venue, also reviews evidence that Mr. Simmons aided and assisted in the filing of false tax returns. *See* Doc. No. 198 at 7-8. The evidence showed that clients relied on Mr. Simmons to get their tax information to the other Defendants. *Id.* The evidence also showed that Mr. Simmons' administrative assistant served as a go-between for the clients and the Defendants. *Id.* Moreover, given that there was evidence that Mr. Simmons assisted clients in obtaining the life insurance policies required for the Gain Elimination Plan and shared his commissions with the other Defendants, there was sufficient evidence to establish he willfully aided and assisted in the filing of false tax returns.

Signed: April 29, 2024

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell
United States District Judge

